

ATTORNEY DOCKET NUMBER: 2006517-0010 (Bacterial Delivery DIV2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Caplan
Serial No.: 10/728,323
Filing Date: December 4, 2003
Title: MICROBIAL DELIVERY SYSTEM

Examiner: Huynh
Art Unit: 1644

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

NOTICE OF APPEAL TO BOARD UNDER 37 C.F.R. § 41.31

Applicants hereby appeal the rejection of pending claims 34-36 and 38-47 in the above-referenced application. These claims have been twice rejected as required under 37 C.F.R. § 41.31(a)(1). The current rejection of these claims in the above-referenced case was mailed January 29, 2007. Applicants submit herewith a Petition for a three (3) month extension of time up to and including July 29, 2007. Because July 29, 2007, falls on a Sunday, a response may be timely filed on the next succeeding day which is not a Saturday, Sunday, or a federal holiday. Accordingly, Applicants respectfully submit that the present Notice of Appeal is timely filed on Monday, July 30, 2007.

A credit card payment form (Form PTO-2038) is enclosed in the amount of **\$760.00**, **\$250.00** of which is to be applied towards the Appeal fee under 41 C.F.R. § 20(b)(1), and **\$510.00** of which is to be applied towards the extension of time fee under 37 C.F.R. § 1.17(a)(3).

Please charge any additional fees associated with this filing, or apply any credits, to our Deposit Account No. 03-1721.

Respectfully Submitted,

/Charles E. Lyon, D.Phil/

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Date: July 30, 2007